

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Hunt Technologies, Inc.,

Plaintiff,

vs.

REPORT AND RECOMMENDATION

Soraca, Inc., Power Line Signals,
Inc., James Rau, Gary Caballero,
William Arden, Darren Sonenstahl,
and A-Weatherization, Inc., d.b.a.
AWXCO,

Defendants.

Civ. No. 05-1369 (DWF/RLE)

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I. Introduction

This matter came before the undersigned United States Magistrate Judge pursuant to a general assignment, made in accordance with the provisions of Title 28 U.S.C. §636(b)(1)(A), upon the Plaintiff's Motion to Compel Discovery. A Hearing on the Motion was conducted on December 22, 2005, at which time, the Plaintiff appeared by Albert L. Underhill, Esq., and the Defendants appeared by Richard A. Ohlsen, Esq.

Following the Hearing, and in our consideration of the parties' positions, we examined whether it was within this Court's jurisdiction to hear this matter. As a result of that examination, we ordered the Plaintiff to show cause why this case should not be dismissed, sua sponte, for want of subject matter jurisdiction. See, Order to Show Cause, Docket No. 20. In response, the Plaintiff has represented that it, "does not contest the dismissal of this case for the reasons set forth in the Order to Show Cause dated January 27, 2006." Plaintiff's Response to Order to Show Cause, Docket No. 21. Accordingly, for the reasons expressed in our Order to Show Cause of January 27, 2006, and in view of the Plaintiff's acquiescence in a dismissal of this action, we recommend that the Plaintiff's Complaint be dismissed, without prejudice, for want of jurisdiction.

NOW, THEREFORE, It is --

RECOMMENDED:

1. That the Plaintiff's Complaint be dismissed, without prejudice, for want of subject matter jurisdiction over the Plaintiff's cause of action.

2. That the Plaintiff's Motion to Compel Discovery [Docket No. 12], be denied, as moot.

Dated: February 16, 2006

s/Raymond L. Erickson

Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE

NOTICE

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.1(c)(2), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than March 6, 2006**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than March 6, 2006**, unless all interested

parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.